September 29, 2016

Allan Kittleman
County Executive

Calvin Ball
County Council

Howard County Government
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Mr. Kittleman and Dr. Ball,

The Howard County Commercial Stormwater Solutions Work Group submits the attached report as required by Executive Order 2016-02. The report includes our "recommendations to the County Executive and the County Council on effective strategies to incentivize commercial property owners to better manage stormwater run-off and assist the County in complying with its MS4 Permit." An appendix provides meeting minutes as a summary of our deliberations.

We thank you both for your trust in the work group and we hope our recommendations prove valuable. We believe it would be beneficial for the work group to meet with the County Executive and County Council to discuss our recommendations and answer any questions you may have.

Sincerely,

Mark Southerland, Ph.D.
Chair of the Work Group

CC:

Phil Nichols
Jim Caldwell

Recommendations of the Howard County Commercial Stormwater Solutions Work Group

29 September 2016

I. The Challenge

On April 11, 2016, County Executive Allan Kittleman signed Executive Order 2016-02 creating the Commercial Stormwater Solutions Work Group. This work group shall "provide recommendations to the County Executive and the County Council on effective strategies to incentivize commercial property owners to better manage stormwater run-off and assist the County in complying with its MS4 Permit." The work group consists of the 11 commercial business owners, developers, and associated experts listed below.

This Municipal Separate Storm Sewer System (MS4) permit requires that the County treat 20% of its total impervious acreage not currently treated, an action that cannot be accomplished by only treating impervious areas on government property. Specifically, the County must treat stormwater runoff from 2,044 acres of impervious surfaces not currently treated to the maximum extent practicable by the end of 2019. The County intends to maximize treatment of impervious surfaces on public lands, but, based on best estimates, this work will only treat 30% of the impervious surfaces that need treatment, with the remaining 70% of impervious surfaces needing to be treated on private lands.

II. Work Group

Members:

Mark Charles, *City of Rockville*
Michael Corso, *JLL*
Chip Doetsch, *Apple Ford*
Carl Gutschick, *Gutschick, Little and Weber, P.A.*
Abby Glassberg, *KLNB, LLC*
Leonardo McClarty, *Howard County Chamber of Commerce*
Pete Mangione, *Turf Valley Resort*
Dan Nees, *Maryland Environmental Finance Center*
Carl Nelson, *COPT*
Cole Schnorf, *Manekin*
Mark Southerland, *AKRF and Environmental Sustainability Board (chair of work group)*

Staff:

Lindsay DeMarzo, *Office of Community Sustainability (staff to work group)*
Jim Caldwell, *Office of Community Sustainability (Director of OCS)*

III. Background

The work group recognizes the formidable challenge that Howard County faces in complying with its MS4 permit and wishes to be part of the solution. As stated above, the County must treat stormwater runoff from 2,044 acres of impervious surfaces not currently treated to the maximum extent practicable by the end of 2019. This means that hundreds of buildings, parking lots, and streets constructed before 2003 need to be treated with stormwater control measures, such as wetland ponds, bioretention (raingardens), stream restoration, or other best management practices (BMPs). The County has already conducted studies, developed BMP designs, and constructed numerous BMPs throughout its public lands. Based on best estimates, this work will only treat 30% of the impervious surfaces that need treatment, with the remaining 70% of impervious surfaces needing to be treated on private lands. In addition to its public land BMPs, the County has instituted stormwater programs for residences and nonprofit properties in the county. The final critical component needed to meet its MS4 stormwater treatment requirements is a stormwater program for commercial properties. Residences make up approximately 60% of private lands and commercial/nonprofit properties 40%. In addition to the absolute need to treat stormwater on commercial properties, many of the least expensive treatments are available on these lands.

IV. Recommendations

To help meet this challenge, the work group discussed in detail the barriers to involvement of the commercial sector and potential incentives to increase participation. Our specific recommendations are described below; they are numbered for convenience but are not in priority order.

1 Focus on High-priority Properties

Target the largest, owner-occupied, commercial and industrial properties with significant areas of land not in use. Recognize that the vast majority of properties will not meet these criteria and will have to be engaged as well.

While all properties should be eligible to participate, the County should target the largest, owner-occupied, commercial and industrial properties. A desktop analysis should be completed to determine the amount of untreated impervious area within Howard County that falls into each group. Rough estimates, however, are that only 10-25% of industrial properties are owner-occupied and these tend to be the smaller buildings. Properties with significant areas of land not in use are likely to be few as well. Therefore, outreach and stormwater treatment cannot be limited to owner-occupied properties as the majority of untreated impervious area is on leased properties. A focus on property management firms with multiple commercial properties may provide opportunities to increase the scale of stormwater projects and reduce costs per treated impervious area.

Commercial property owners will be most receptive to projects that take the least valuable land and that provide the most direct benefit to the owner. Enhancement of existing stormwater ponds with increased retention, infiltration, and vegetation to provide the needed treatment would be most acceptable to owners. Office and retail owners could also be most receptive to stormwater

facilities that create amenity value (e.g., beautiful ponds or landscaping) that would attract customers.

The work group can facilitate the identification of the first candidate commercial property sites for stormwater management projects through their professional networks and the organizations they represent, including the Howard County Chamber of Commerce, Building Owners and Managers Association (BOMA), and National Association of Industrial and Office Properties (NAIOP).

2 Conduct Effective Outreach and Education

Make outreach and education of the commercial sector as simple and relevant as possible, answering the questions of "why is it their problem?" and "how can participation benefit the owner?" Include messages that (1) there are consequences of the County not meeting its MS4 stormwater permit and (2) the burden of participation will be fairly distributed among all sectors of the county.

It is essential that outreach and education of the commercial sector be as simple and relevant as possible. Stormwater management is not the business of commercial property owners and it is still poorly understood by the general public. Outreach to commercial property owners needs to answer the questions of "why is it their problem?" and "how can participation benefit the owner?" Also, it is important that commercial property owners (1) understand the consequences of the County not meeting its MS4 stormwater permit and (2) believe that the burden of participation is fairly distributed among all sectors of the county. Howard County should emphasize that the costs of improving regional stormwater facilities will be equitably shared among the properties that contribute runoff. Similarly, the County should ensure that existing and future fees and credits are fairly assessed among sectors.

Outreach should involve face-to-face meetings to guarantee that program information gets to the right person within the commercial firm. In some cases, the property management firm may be more local and more motivated to enhance their property than a remote owner. In general, simple explanations that focus on the actual project construction, rather than concepts like "obtaining stormwater credits," are better understood. Terms like "treating impervious surfaces" should be replaced with "reducing polluted runoff from oil/grease, road salt, etc." Before and after photographs are effective ways to communicate with property owners. Outreach and program language should be explicit that any stormwater upgrades (e.g., pond retrofits) included in Chapter 3 of the 2000 Maryland Stormwater Manual are acceptable, not just Environmental Site Design (ESD) practices.

The County should (1) draw on lessons learned from finance companies that regularly engage business landowners and possibly (2) hire a consultant to develop an effective outreach campaign and act as "local agent" to engage commercial property owners. While the central message is that the County wants (and is required) to improve water quality in our local streams, and cannot do this without the involvement of business owners, outreach should also emphasize the benefits of economic development and creation of local jobs. The economic prosperity of Howard County has resulted in large part from its status as a "green" location with high environmental quality. Therefore, another message should be that implementing these stormwater projects may improve environmental quality or arrest the decline in quality seen by the public.

Although some commercial property owners may view punitive actions by the Maryland Department of the Environment (MDE) and U.S. Environmental Protection Agency (EPA) on Howard County for not complying with their MS4 permit as a "remote" risk, EPA is currently negotiating a consent decree with Montgomery County (which did not meet its MS4 permit requirements), so it is unlikely that corrective actions will not be taken. Therefore, the commercial sector, and the larger community, should be educated about the following possible consequences to the County and businesses of not meeting the MS4 permit requirements:

- Daily fines on Howard County
- Institution of new permits with accelerated schedules or increased requirements
- Withdrawal of federal and state highway funding to Howard County
- Reduction or elimination of new construction permits in Howard County
- Imposition of individual stormwater permits on commercial properties

It is also possible that failure of voluntary participation of the commercial sector could result in the County (1) creating special protection areas with stricter stormwater regulations on development or (2) mandating management of stormwater runoff from legacy impervious surfaces on commercial and/or residential properties through regulations. At a minimum, if stormwater projects cannot be constructed on commercial properties, more expensive projects will have to be constructed elsewhere and additional County funds will have to be raised.

3 Develop Standard Access and Maintenance Agreements

Develop standard and separate access and maintenance agreements for stormwater projects to meet the MS4 permit obligations. Provide owners with the option of self-performing maintenance or having the County or a third-party perform maintenance.

The County should develop standard access and maintenance agreements for stormwater projects needed to meet the MS4 permit obligations. Example agreements from Rockville and Philadelphia should be reviewed and customized with provisions suggested by the work group. Separate agreements should be developed to address pre- and post-construction activities, i.e., (1) access and easement/lease agreement for design and construction, and (2) inspection and maintenance agreement. Also, the County should streamline the process by waiving new development agreements (DAs and DOCs) and bonds. One option is for property owners to take on the maintenance, but to reduce the stormwater fee on commercial properties by the amount estimated to be spent by the owners in maintenance of the stormwater facilities. Many property owners may choose to have the County or a third party (such as a nonprofit watershed group or land trust) conduct the maintenance and all owners should have the ability to transfer maintenance to the County and return to paying their stormwater fee.

4 Streamline Design, Permitting, and Construction Process for Stormwater Management under MS4 Permit

Streamline the permitting process for stormwater management projects needed to meet MS4 permit obligations and consider the options of (1) using standard stormwater designs, (2) hiring a dedicated stormwater permit reviewer, and/or (3) allowing "peer-review" of stormwater permits.

The County should streamline the permitting process for stormwater management projects needed to meet MS4 permit obligations. Ideally, these projects would be permitted within the 3-week timeline for redline applications. To approach such an expedited timeline, the County would need to work with MDE and U.S. Army Corps of Engineers (USACE) to expedite any needed state and federal reviews. We understand that MDE is currently working to expedite their review for stream restoration projects. We also understand that the County is using the lessons of the current pilot stream restoration project at Patrick Farm to ultimately reduce obstacles and permitting time on private land.

We recommend three approaches for streamlining the County permitting process for stormwater management and stream restoration projects:

- The County should consider developing and requiring standard, acceptable stormwater management designs to simplify and expedite permitting and to be more cost-effective.
- The County should consider hiring a new dedicated, stormwater reviewer for the County, so that MS4 stormwater projects could move through the system on their own track, decreasing permitting time for everyone. The benefits of expedited implementation would far outweigh the cost of an additional reviewer.
- Alternatively, the County should consider allowing owners to use County-approved, private "peer reviewers" to conduct stormwater plan reviews. Montgomery, Prince George's, and recently Anne Arundel Counties are accepting peer reviews for various development applications.

5 Provide County Funding and Incentives

Reduction or elimination of the stormwater fee is an insufficient financial incentive for commercial property owners to construct stormwater projects. Therefore, the County program should consider (1) funding up to 100% of stormwater projects, (2) reducing the stormwater fee for owner-performed maintenance, (3) tax credits for stormwater projects, (4) relief from parking space requirements, and (5) green certification.

The work group recognizes that the County has various options to incentivize the commercial sector's participation in stormwater management. Currently the County is pursuing voluntary incentives but may have to consider mandatory requirements if participation is insufficient. Rather than a piecemeal approach, we recommend that the County create a commercial stormwater program that specifically focuses on the needs of commercial property owners.

Currently, reduction or elimination of the stormwater fee only provides a monetary payback on capital projects over many decades, so there is insufficient financial incentive for commercial property owners to construct stormwater projects in trade for stormwater fee reductions. Therefore, if participation remains voluntary, the County program should consider including the following incentives:

- <u>County Funding up to 100% of Stormwater Projects</u>. The County should realize that significant funding will be required to engage commercial property owners in a program for controlling legacy stormwater runoff and complying with the MS4 permit. While some businesses would consider contributing financial resources to these stormwater projects, the majority would require that the County pay 100% of design and

construction costs. This is especially true of investor-owned properties that require a certain return on investment and do not have the discretion of owner-occupied commercial properties. Commercial property owners that wish to contribute financially to stormwater management could be further incentivized by County matching funds and partnerships with nonprofits that obtain grant funds. The County can reduce its overall costs by embracing public-private-partnerships (P3) and other program elements that minimize the transaction costs of implementing large numbers of stormwater projects.

- Reduction of Stormwater Fee for Owner-performed Maintenance. In contrast to design and construction costs, maintenance costs of many stormwater projects are comparable to current stormwater fees for many commercial property owners. Some owners will likely choose to conduct maintenance in exchange for reduction of their stormwater fee, while others would prefer to continue paying their fee and have the County or a third party conduct maintenance.
- Tax Credits for Stormwater Projects. Commercial property owners are reluctant to convert land to stormwater projects unless they receive some value for that land. Depending on applicable tax laws and whether the stormwater facility is deemed an enhancement or public service, commercial property owners may be eligible for depreciation or other tax reductions. The County should consider providing tax credit for stormwater projects similar to the credits given for constructing buildings to "green building" (e.g., LEED) standards.
- Relief from Parking Space Requirements. Losing parking spaces with the installation of a stormwater facility is a concern of many commercial property owners, especially given the County requirements for parking. A waiver from those requirements in the case of stormwater management needed to meet MS4 permit obligations would remove that regulatory barrier from commercial property owners.
- Green Certification for Stormwater Projects. Recognition of "green efforts" is not a major incentive for most commercial property owners, but it would be welcomed by some. As an example, the County could award a CleanWaterHoward certification to any commercial property owner that contributes to constructing stormwater projects at the following levels:

  - Credit for treating less than all untreated impervious acres on the property to MS4-permit-required 2000 Manual standard – CleanWaterHoward Certification
  - Credit for treating all untreated impervious acres on the property to the MS4-permit-required 2000 Manual standard – CleanWaterHoward Silver Certification
  - Credit for treating all untreated impervious acres on the property to the ESD (exceeding the 2000 Manual standard) – CleanWaterHoward Gold Certification

6 Create a Commercial Stormwater Program

Create a commercial stormwater program, ideally modeled after the current County nonprofit program and similar turnkey programs from other counties. The County would contract with design-build teams to provide site selection, design, construction, and initial maintenance for stormwater projects on commercial properties throughout the county.

The work group recommends that the County create a commercial stormwater program using elements from the three options described below. Elements that involve public-private-partnerships (P3) have the potential for the greatest cost savings. We believe it would be most straightforward for the County to model their commercial stormwater program after the current County nonprofit program. As part of creating a commercial stormwater program, the County should ensure that all easements and agreements required for stormwater work to support the MS4 permit be allowed on private property.

County Turnkey Program

This approach would mimic the current County nonprofit program (and similar turnkey approaches by other counties), wherein the County contracts with design-build teams to provide site selection, design, construction, and initial maintenance for stormwater projects on commercial properties throughout the county (future maintenance could be conducted by the property owner, County, or third party). Such a County Turnkey Program would simplify the involvement of commercial property owners. Selection of the turnkey teams would be based on proposals that commit to treating the most impervious area. In this way, the most cost-effective stormwater projects, such as enhancing existing detention ponds, would be implemented first. The turnkey program approach should dramatically reduce the transaction costs of contracting out individual design and construction projects. Creation of a design guide for this program with simple, standard designs of perhaps six different types of stormwater projects, such as that used in Philadelphia, could lead to additional cost savings.

The County has an inventory of projects from its current watershed plans that could be used by bidders to propose costs to treat impervious acres on commercial properties. The County could expedite the implementation process by identifying willing commercial landowners through a consultant, as DC is doing, and providing this to turnkey bidders.

Design Assistance Program

This option would entail more involvement and initiative from commercial property owners. It would be a design assistance program, wherein the County would contact high-priority commercial property owners, obtain agreements, and provide stormwater designs acceptable to the owners. The owner would then contract from a County-provided list of construction and maintenance firms to install and maintain the project.

Stormwater Credit Program

This option would mimic the current DC Stormwater Retention Credit (SRC) Program wherein the County offers to purchase credits for treated impervious acres. Individual property owners or private aggregators would design and construct approved stormwater projects and sell their credits to the County or others seeking the credits. The initial price for an acre of treated impervious area would be determined by the current market rate, which would likely increase as the least expensive projects are constructed. Unless the County agrees to purchase all the credits, this option requires a private market based on extensive redevelopment, which would generally only be applicable to Downtown Columbia and Historic Ellicott City. In addition to reducing the transaction costs and achieving the cost efficiencies of a P3, the ability to treat stormwater on locations where the cost of land is less would reduce overall program costs to the County.

7 Ensure Financial Integrity of the Program

Ensure a balance of revenue and costs (i.e., monies to provide needed funding, rebates, and fee/tax credits) through cost-effective implementation and adequate funding. Recognize that the County will need to increase its stormwater fee or property tax, or reduce expenditures from other programs, if funds cannot be obtained from other sources.

Providing the funding and incentives included in these recommendations necessitates that the County ensures a balance of revenue and costs, i.e., adequate monies to provide needed funding, rebates, and fee/tax credits. The County Financial Assurance Plan approved July 2016 states that Howard County will spend $41M in FY17-18 and $87M in FY19-20 on stormwater projects required by its MS4 permit. This amount significantly exceeds the approximately $40M that will be raised by the stormwater water fee over this period, so bonds and other sources of funding will also be used. It is likely that the funds required will be larger as the cost of stormwater projects will increase above the average $50,000 per treated acre used in the estimates (as the easiest sites to manage stormwater on are completed and more expensive sites must be treated). Therefore, all parts of the county economy will need to contribute to funding stormwater projects in the future.

Currently the incentives provided by the reduction in the stormwater fee and rebates offered for installation of stormwater projects are insufficient. Typically the payback periods under the current incentives are many decades. Jurisdictions with higher stormwater fees, such as DC and Philadelphia, have found that stormwater fee reductions provide incentives in some cases. In DC the combined fees levied by the District Office of Energy and Environment (DOEE) and DC Water are about $300 per 1000 ft^2, while the fee in Howard County is $30 per 1000 ft^2. The fee in the City of Rockville is $50 per 1000 ft^2, but has been in place since 1978 and has increased regularly to meet the budget of the stormwater program. The work group recognizes that the County may need to increase its stormwater fee or property tax, or reduce expenditures from other programs, if funds cannot be obtained from other sources.

The current version of the Howard County stormwater fee has restored an approximate balance of contributions by residential and commercial property owners based on the extent of their impervious surfaces. Prior to the latest amendments to the Howard County stormwater fee, commercial properties paid more than their proportion of impervious area. When this amendment is fully implemented commercial properties will pay somewhat less than their proportion of impervious area. The work group is amenable to adjusting the fee structure to attain exact equitability among all property owners.

Appendix—Work Group Deliberations and Minutes

The deliberations of the work group consisted of seven meetings from May 13 to September 21, and included presentations by experts, questions and answers, and evolving discussions. Strawman recommendations were developed and debated over two meetings, leading to the final recommendations that were discussed and approved in the final meeting. Detailed minutes of each meeting are attached to this report as an appendix. A brief summary of each meeting and the materials presented are provided below.

May 13—Howard County Administration and Council staff welcomed the work group members, read the charge to the work group, and described the operation of the work group under the open meetings law.

Jim Caldwell, *Howard County OCS*, presented "The Stormwater Challenge" facing Howard County.

Dan Nees, *Maryland Environmental Finance Center*, presented "Commercial Stormwater Overview" with relevant concepts and examples.

Mark Southerland and Shandor Szalay (by phone), *AKRF*, presented "Philadelphia Tackles Stormwater" as a detailed example.

Mark Southerland and Lindsay DeMarzo distributed 10 "homework" questions for review by the work group and discussion at the next meeting.

May 31—Mark Southerland reviewed the work group mandate and the process going forward, and Lindsay DeMarzo provided an overview of the Basecamp (file share) method of sharing agenda, minutes, resources, and work products.

The work group discussed the homework questions and asked that presentations on the permitting process be provided in the next meeting.

June 22—The work group continued discussion of the homework questions and participated in questions and answers from the following presentations.

Chad Edmondson, *Howard County Department of Planning and Zoning (DPZ*), presented "Plan Review Process and Case Study."

Lindsay DeMarzo, *Howard County OCS*, presented "Examples of Stormwater Retrofits on Commercial and Nonprofit Properties."

Jennifer Smith, *MDE Sediment, Stormwater and Dam Safety Division*; Paul Busam, *MDE Waterway Construction Division*; and Amanda Sigillito, *MDE Nontidal Wetlands Division* presented an overview of state permitting requirements and answered work group questions.

July 13—The work group continued discussion of issues raised and participated in questions and answers from the following presentations.

Brian Van Wye, *District Department of Energy and Environment*, presented "DC Stormwater Reduction Credit (SRC) Program."

Mark Charles, *City of Rockville*, presented "Overview of Rockville Stormwater Program."

Mark Southerland distributed a strawman of recommendations derived from the work group for review and discussion at the next meeting.

August 17—The work group discussed the strawman recommendations and decided to convene a second August meeting to get input from additional work group members on a revised strawman.

September 2—The work group continued detailed discussion of the revised strawman recommendations, which were incorporated into the draft report and distributed to the work group on September 16.

September 21—The work group discussed the draft report and revisions were incorporated into a "track changes" version and was distributed for final comment before the final report was submitted to the County Executive and County Council.

Howard County Commercial Stormwater Solutions Work Group

Friday, May 13, 2016

10:00AM - Noon

Attendees:

Mark Charles, Carl Gutschick, Pete Mangione, Leonardo McClarty, Dan Nees, Carl Nelson, Cole Schnorf, Mark Southerland (work group chair)

Staff: Jim Caldwell (OCS), Mark DeLuca (DPW), Gary Smith (Council), Philip Nichols (Co Exec), Lindsay DeMarzo (OCS-staff for the work group), Lewis Taylor (Law)

Introductions

Open Meetings Act and Public Information Act Overview – Lewis Taylor

The Stormwater Challenge – Jim Caldwell

- History of stormwater, overview of stormwater management, Howard County's stormwater situation, regulatory mandates, and nonprofit program (see presentation)
- Howard County must treat approx. 2,000+ acres of impervious surface by 2019 at a cost of at least $132M; total of $226M will be needed to meet all TMDLs by 2025
- Montgomery County is negotiating a consent decree with EPA to avoid daily penalties since it did not meet its permit deadline of treating 4,300 acres (though all acres are under design or construction)
- 70% of stormwater management projects identified by Howard County in watershed studies are on private land

Commercial Stormwater Overview – Dan Nees

- Stormwater revenue through taxes is less efficient and less flexible than fees (fees require residents and businesses to pay less over time than do taxes)
- 1,700 SW utilities exist nationwide with about 30 in the Chesapeake Bay region; residents and businesses in Texas pay more than in Maryland
- Chesapeake Bay is the first watershed wide TMDL (Total Maximum Daily Load) in the nation, but not the last
- 3 reasons why businesses are important to reach stormwater permit goals: (1) access to land for stormwater management (businesses may have as much or more land than all residences), (2) businesses can have greater individual influence on stormwater management because each business controls more impervious surface than each residential property), and (3) businesses can use the market to increase efficiency

- Although there are some cutting-edge commercial strategies and initiatives already in place (e.g., DC has a new innovative trading program), Howard County can be a national model

Philadelphia Tackles Stormwater – Mark Southerland and Shandor Szalay, AKRF

- Philadelphia Water (previously PWD) has committed to extensive stormwater management program to meet its Combined Sewer Overflow (CSO) consent decree (see presentation)
- PWD has instituted technical assistance and financial support programs and studied their effectiveness, including
  - Design assistance program created in 2009 for commercial properties, recognizing that stormwater management is not the specialty of commercial property owners
  - SMIP (stormwater management incentive program), including studies of cost thresholds for constructing stormwater management on easy, medium, and difficult sites (currently the program pays up to $100,000 per acre for treatment)
  - Property owners' use of fee savings to fund maintenance
  - Incorporation of ancillary benefits on property, such as reuse of water and local materials

Wrap Up – Questions for homework were distributed and will be discussed at the following meeting

Closing – Mark Southerland thanked the participants and adjourned the meeting at 12:04pm

Howard County Commercial Stormwater Solutions (CSS) Work Group

Tuesday, May 31, 2016

9:00AM – 11:00 am

Attendees:

Mark Charles, Abby Glassberg, Carl Gutschick, Dan Nees, Cole Schnorf, Mark Southerland (work group chair)

Staff: Lindsay DeMarzo (OCS-staff for the work group)

Introduction

Mark Southerland opened the meeting at 9:20 by reviewing the executive order creating the CSS and summarizing the goals of the work group. The agenda for this meeting was to (1) answer questions raised by the first meeting, (2) discuss the 10 homework questions, and (3) identify topics to be presented from outside parties at the next meeting.

Questions Raised by First Meeting

- The group discussed commercial property stormwater management basics and went over a few examples of properties with existing, outdated stormwater facilities (prior to 2003) and how the credit and reimbursement program would apply. Everyone agreed that targeting properties with the largest amount of untreated impervious surfaces is the best approach. Howard County DPW has watershed plans that target such areas on both public and private land.

- Clarity was provided that treatment of existing impervious surfaces for credit under the MS4 permit does not have to employ the environmental site design (ESD) technology required of new development. Credit is given for any stormwater treatment facility that meets the 2000 state regulations. The most cost-effective treatment per impervious acre is upgrading existing stormwater ponds that have retention but not treatment and these facilities are allowed under the 2000 regulations.

- The group pointed out there are 2 main types of commercial property owners, as well as a variety of property types including industrial:

    - Developer-owned property with tenants

    - Owner-occupants

Developer-owned properties may be less inclined to seek stormwater fee reductions because fees are passed on to tenants. Industrial properties with lower rents may be more inclined to seek stormwater fee reductions because their fees are a higher percentage of their property tax. High priority targets should be commercial and industrial properties with significant areas of land not in use.

Discussion of 10 Homework Questions

1. Financial incentives are most important to commercial property owners, but technical support and being a good steward are also benefits to owners. Some businesses would be willing to contribute financially to stormwater management, especially owner-occupied firms with longer term goals.

2. The group discussed the following technical aspects of a CSS program:

- Permitting hurdles are a major concern of property owners so an expedited or improved process for obtaining permits might be a significant incentive for them. Of specific interest is the ability to upgrade stormwater ponds that have naturally converted to wetlands (which are protected from development). The County may also have to address internal conflicts such as tree removal for stormwater management facilities when trees also provide stormwater credit.

- The County should consider changing the language in the stormwater credit and reimbursement schedule legislation to clarify that any upgrades (e.g., pond retrofits) included in Chapter 3 of the 2000 Maryland Stormwater Manual are acceptable, not just the ESD practices currently listed.

- Lists of approved practices and guidance manuals are already available and generally not desired by owners seeking turnkey solutions, but a list of County-screened contractors would be good. Owners prefer to bid out any work they are paying for, so they are not overpaying. A suggested model had the County providing (1) the design and (2) a construction/maintenance contractor list for the owner to choose and hire from.

- The group was also favorably inclined to the market-based approach that uses private aggregator firms. The aggregator does the permitting, installation, and maintenance (and sometimes site selection and design), and sells the credit back to County. Aggregators are good at finding the best sites and keeping costs down. This is most efficient when a private market is in place, but the County can also bid turnkey contracts out competitively.

- Another option is offsite mitigation or trading. City of Rockville currently has an offsite mitigation program, where all stormwater fees, fees in lieu, etc. go into the same fund to be spent for stormwater management. To date trading has not been common in Maryland, but MDE is developing a new policy to create trading of stormwater credits among sectors. Fee-in-lieu programs are generally not popular with the public unless the monies can be shown to be being spent on directly addressing the impacts. Any fee-in-lieu program should be couched in terms of accruing immediate benefits to the same watersheds suffering stormwater impacts. The current nonprofit program in the County might be a vehicle for offsite mitigation of commercial properties that do not have space to install stormwater management.

- The group was also very interested in creating a different permitting process for stormwater management beyond the current options of (1) full site plan or (2) red line process. It would be desirable that something like upgrading a stormwater pond be permitted by aggregator or owner in 1-2 months rather than the current 8 months. Another option would be to hire a new stormwater

reviewer for the County, so that stormwater credit applicants would be moving through the system on their own track, decreasing permitting time for everyone. Delays in permitting can be a major impediment to aggregators.

3. The discussion on financial incentives included the following:

- The group felt that a CleanWater business certification would not be a big motivator for property owners or tenants. They cited the decreasing interest in getting LEED certifications as evidence.
- Currently the County stormwater fee is generally too low for fee reductions to provide significant financial incentives. Rebates on the cost of implementation of stormwater management are a more important incentive.
- The point was made that the County needs to ensure a balance of revenue and credits, i.e., adequate monies to provide rebates.
- County needs to ensure the propriety of using public funds on private lands when they provide public benefit.

4. The group did not see any major concerns with the agreements listed, including Declaration of Covenants.

- It was suggested that agreements with County and/or County-hired contractors should separately address pre- and post-construction.

5. Most owners would prefer turnkey solutions (i.e., with the County doing everything including maintenance), while others (e.g., Bozzuto) prefer to install and maintain stormwater facilities themselves. Others might prefer something in between.

6. No consensus was reached on which maintenance arrangements commercial property owners would prefer.

- Typically the County does not do maintenance in-house, but hires a contractor**.**
- County currently has a good system where commercial owners maintain existing stormwater facilities, but the County supports residential owners and does most of maintenance for HOAs.
- City of Rockville currently cites owners for not maintaining their stormwater facilities and hires a contractor to do the maintenance.
- Philadelphia offers a reduction in stormwater fees in exchange for maintenance. This is a better match with costs than construction which requires rebates to cover the costs.

7. The group strongly believes targeted outreach and face-to-face meetings are the most effective forms of outreach to commercial property owners. Face-to-face meetings also guarantee that program information gets to the right person within the commercial firm.

8. The group noted that the impervious acres treated would be the obvious measure of success, but that they also want to recognize that different types of commercial properties exist and the County should create a program that reaches out to and recognizes the contributions of all commercial property owners.

9. The group noted that generally owner-occupied properties would not mind a longer payback period.

- The group agreed that property owners should be able to obtain rebates themselves and not be required to use an aggregator. This has the potential to bring down costs further.

10. Awareness of the current reduction in the stormwater fee available to stormwater management facilities constructed in 2003 or newer could be increased by including an insert in the tax bill.

- Conversion to an aggregator system would doubtless increase applications for the fee reduction, though it only applies to ESD currently.

Presenters for Next Meeting

The group suggested inviting the following organizations to present additional information at the next meeting:

- Howard County Department of Public Works (DPW) – Examples of stormwater management facilities that could be constructed on commercial properties and associated costs
- Maryland Department of Environment (MDE) Wetlands and Waterways Program – Current rules and potential improvements to streamline stormwater management permitting
- Howard County Department of Planning and Zoning (DPZ) – Current process and potential improvements to streamline stormwater management permitting
- City of Rockville – Off-site mitigation for stormwater management program

Work Group Logistics

Lindsay gave a quick overview of the basecamp software being used for work group file sharing.

Closing

Mark Southerland thanked the participants and adjourned the meeting at 11:15 am

Howard County Commercial Stormwater Solutions (CSS) Work Group

Wednesday, June 22, 2016

9:00AM – 11:00 am

Attendees:

Jennifer Smith (MDE – Sediment, Stormwater and Dam Safety Division), Paul Busam (MDE – Waterway Construction Division), Amanda Sigillito (MDE – Chief of Nontidal Wetlands Division)

Mark Charles, Michael Corso, Chip Doetsch, Abby Glassberg, Carl Gutschick, Pete Mangione, Dan Nees, Cole Schnorf, Mark Southerland (work group chair)

Staff: Chad Edmondson (DPZ Development Engineering Division), Lindsay DeMarzo (OCS-staff for the work group)

Introduction

Mark Southerland opened the meeting at 9:10 by providing an overview of past meetings and welcoming guests from Maryland Department of the Environment (MDE) and Howard County Department of Planning and Zoning (DPZ).

Chad Edmondson – Howard County Department of Planning and Zoning (DPZ), Development Engineering Division

Chad provided an overview of the evolution of stormwater facilities (from quantity control in 1980s to water quality treatment and channel protection in 2000 Stormwater Design Manual to environmental site design in 2007 Stormwater Management Act) and described options for retrofitting (enhancing) stormwater ponds, such as adding forebays and sand filters. Adding a sand filter is a common way to add water quality treatment to an existing pond designed only for water quantity control. However, the addition of water quality treatment features may decrease the area (volume) for water quantity retention, so an expansion of the pond or upstream quantify control may be needed.

Chad also provided an overview of the development review process:

- Redline to a development plan – Used for revisions to an existing plan with a 3-week turnaround that includes DPZ et al. review. Fee for redline is $200.
- Environmental Concept Plan – This is a longer process, but it might not be a necessary for stormwater management projects or a simplified ECP with a 3-week turnaround could be devised

The group discussed whether existing Developers Agreements (DA) would require amendments or a possible new DA depending on who the new owner is. The DA is closed out when the project is complete and the maintenance agreement is what persists. The group suggested that a way to simplify

for stormwater projects might be to eliminate the DA (and associated bonds) and just use the maintenance agreement.

Chad will check into where the County can streamline the process for stormwater projects needed to meet the MS4 permit.

Lindsay DeMarzo – Howard County Office of Community Sustainability, Nonprofit and Commercial Programs Manager

Lindsay described the Nonprofit Partnership Program and the recent contract awards. $1M was awarded to each of two contractors to provide the most impervious area treated by installing stormwater facilities or upgrades on nonprofit partner properties. The Partnership has more than 230 partners and the contractors were allowed to choose from the 75 largest properties to try to gain the greatest impervious surface treatment. Combined, the contractors are guaranteeing at least 34 impervious acres of treatment to meet our permit for the $2M. Some of the treatment/ facility types proposed include stream restoration, gabion sandwich filter, sandfilter and forebay, downspout disconnection, and shallow marsh.

Lindsay then provided an overview of a commercial property assessment completed by Biohabitats in 2015 at the Saval Foods property. Biohabitats suggested two levels of treatment for the property to include several bioretentions, rainwater harvesting, turf conversion, and a green roof. The higher treatment option provided 3.14 acres of impervious treatment for $482,000 with a 115-year payback period based on their Watershed Protection Fee credit. The lower treatment option provided 1.82 acres of impervious treatment for $238,500 with a payback period of 96 years based on their credit.

The group discussed whether stormwater facilities could be depreciated or whether property owners could lease the facility to the County which could then depreciate it. For instance, the County constructs the facility as part of a lease agreement that the property owner then writes off.

Maryland Department of the Environment (MDE)

Paul Busam provided an overview of regulated (jurisdictional) stream types and MDE's jurisdiction over stormwater facilities as it relates to ground water:

- 3 types of streams
  - Ephemeral – road ditch – not jurisdictional
  - Intermittent – ground water driven – jurisdictional
  - Perennial – ground water driven and flowing all the time – jurisdictional

MDE clarified that nontidal wetlands within a stormwater facility are exempt from regulations. If you are expanding into an adjacent nontidal wetland then a permit is needed. If there is an existing stormwater pond that changes into wetland naturally, it is considered a stormwater facility as long as it is functioning for that purpose. The County must determine how to handle maintenance requirements for a stormwater pond that has changed to a wetland (i.e., as a stormwater pond or as a stormwater wetland). In terms of crediting, MDE advised that the treatment being provided by the facility at the

time of the 2009 Chesapeake Bay TMDL baseline is what would need to be improved upon to obtain credit. Jurisdictions are considering this issue as they refine their baseline treatments and opportunities for credit.

The group asked whether a study is needed to determine that groundwater is intercepted at the stormwater pond outfall. MDE clarified that it is generally straightforward to observe visible groundwater at the outfall, but that a pre-application field visit with MDE staff is generally recommended.

MDE explained that the joint permit application covers both waterway impacts and nontidal wetland impacts for the State. A copy of the permit goes to the U.S. Army Corps of Engineers (USACE) and MDE coordinates the review with local, state, and federal agencies. MDE explained that USACE gave MDE a state programmatic permit so MDE performs reviews for them (except stream restoration goes through USACE as well). MDE tries to get stream restoration/environmental benefit associated permits through as quickly as possible, i.e., in approximately 90 days. MDE said that permitted nontidal wetland impacts typically do not require a public meeting. Pre-application meetings help speed things along and MDE can determine if a joint permit is needed for a stormwater facility, because they can speak on behalf of USACE.

MDE also noted that existing ponds designed to meet dam safety MD code 378 criteria, and were originally identified as low hazard ponds, may be subject to hazard creep (i.e., where embankment failure could cause loss of life). If the hazard class has changed based on additional surrounding development or other factors, then the review would have to go through additional dam safety review. MDE encouraged review of the Embankment Retrofit Design document on their website which explains this issue:

http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/SedimentandStormwaterHome/Documents/Embankment%20Retrofit%20Policy%202015%20Final.pdf

Closing

Mark Southerland thanked the guests for presenting and adjourned the meeting at 11:10am.

Howard County Commercial Stormwater Solutions (CSS) Work Group

July 13, 2016

10:00AM – 12:00 pm

Attendees:

Presenter: Brian Van Wye (District Department of Energy and Environment)

Work Group: Mark Charles (presenter), Abby Glassberg, Carl Gutschick, Pete Mangione, Leonardo McClarty, Cole Schnorf, Mark Southerland (chair)

Staff: Lindsay DeMarzo (OCS – staff for the work group)

Guest: Larry Liebesman

Introductions

Mark Southerland opened the meeting at 10:20am by providing an overview of past meetings and welcoming guest Brian Van Wye from the District Department of Energy and Environment (DOEE).

Brian Van Wye - District Department of Energy and Environment

Brian provided an overview of the District of Columbia's (DC) stormwater program, noting that early efforts did not include stakeholders as much as they now believe they should have, resulting in an unsuccessful effort.

DC's draft MS4 permit came out in spring 2010 requiring retention of the 1.2" storm. In July 2013, regulations were finalized after intensive stakeholder involvement. Regulations focus on new construction that disturbs 5,000 square feet (SF) (requiring retention of 1.2" storm) and redevelopment with the same disturbance threshold that costs 50% of original value (requiring retention of 0.8" storm). These regulations allow up to 50% of retention to be achieved off-site and provide incentives for other properties to be used for mitigation banking. Background affecting the DC stormwater program is as follows:

- Harvested stormwater can be reused for specific purposes (this is different from graywater permitting)
- About 1% of DC is redeveloped each year and DOEE directly invests in stormwater controls on 10% of that area
- 20% treatment of untreated impervious surface requirement in the permit equates to 18 million SF
- Current permit cycle coming to a close this fall
- DC has a Combined Sewer System and underground storage tunnels and green stormwater infrastructure are being installed by the water authority (DC Water) to meet the consent decree

The situation in DC is that almost all of the development in DC is redevelopment, so the Stormwater Retention Credit (SRC) trading program leverages the need for redevelopers to control stormwater off site. Features of the SRC trading program to incentivize runoff-reducing green stormwater infrastructure include the following:

- Developers can go off-site for 50% of required retention
- Off-site volume retention is an annual obligation with two options:
  - Fee-in-lieu payment to DOEE of $3.58/gallon/year
  - Privately tradable SRCs at 1 SRC/gallon/year (most recent transaction was $1.90, so this is better option than fee-in-lieu payment)
- DOEE is sole SRC certifying authority
- Property owners can do a combination of fee, credits, and on-site retention
- DOEE will certify up to 3-years-worth of credits every 3 years. Credit generators can reapply for credits for another 3 years after inspection.
- Must maintain stormwater control for the period of SRC certification but not indefinitely. Programs in other jurisdictions provide permanent credits which may over- or under-value the useful life of the stormwater facility. This 3-year cycle of crediting is fairer across sites and leaves room for cost-effective innovation in the future.
- 4 eligibility requirements for certification
  - Retention must exceed pre-project detention, i.e., above 1.2" but capped at 1.7"
  - Stormwater control must be designed in accordance with DOEE technical guidance document and the facility plan must be reviewed and approved
  - Must be inspected during development
  - Must provide maintenance plan to prove ability to maintain over 3-year credit period
- Developers who buy credits are not required to maintain off-site stormwater facility, nor are they held to its performance, because the legal linkage is severed between the two parties. DOEE follows up and holds the credit generator responsible for maintenance.
- Fee-in-lieu rate is based on DC's cost analysis for pilot projects, which took into account both expensive and less-expensive retention methods, program management, maintenance, land costs, etc.
- Properties voluntarily installing and selling credits get a much bigger monetary benefit by selling credits than they do from the stormwater fee discount they can receive
- DC properties pay both DOEE stormwater fee of $2.67 per 1,000 SF and DC Water Impervious Area Charge (IAC) of about $23 per 1,000 SF monthly (annual total of $300 per 1,000 SF)
- DC sees trading as a way to maximize cost savings, increase retention, accelerate restoration of waterbodies, and spread aesthetic and social benefits to other neighborhoods (an equity and environmental justice consideration)
- Since smaller storms occur more often (90% of storms are less than 1.2"), using a combination of smaller retention facilities, both on-site and off-site (through the trading program), should result in the combination of facilities providing more retention and first-flush volume treatment than a single large facility (perhaps by 50%)

- Pay-for-performance approach is similar to a reverse auction that engages private market efficiencies, such as
  - Ongoing incentive for construction managers and property owners to look for cost-effective opportunities
  - Incentive to look for least-cost opportunities on public and private property
  - Incentives for innovations in stormwater control technology
- DOEE can manage the pace of stormwater control implementation with SRC purchases, i.e., DOEE will buy credits for the price needed to stimulate implementation. It is expected that credit generators will get a better price from a regulated site needing to buy credits, but DOEE provides assurance of the minimum price that they will receive for their credits.
- Only new green stormwater infrastructure projects within the roughly 2/3 of the city that drains without treatment to District waterbodies are eligible to see credits to DOEE under the new $11.5 million Stormwater Retention Credit (SRC) Purchase Agreement Program.
- SRC program includes $500,000 for outreach and technical work to identify stormwater sites and stimulate credit generators

Mark Charles - City of Rockville

Mark explained that the City of Rockville stormwater program dates back to 1978, however, their stormwater fee was established in 2007. Like DC, Rockville mostly sees redevelopment projects and stormwater projects associated with redevelopment. Maintenance is part of the stormwater requirement and if not performed by the property owner, the City performs maintenance and charges the property owner.

Their inventory of public stormwater facilities found that they have 800 facilities in their 13 square miles, of which 34% is impervious. Updates of inventories of public and private stormwater facilities occur every 2 years using aerial photos which also show changes in impervious area. Many of the stormwater facilities may have no or insufficient maintenance.

The Rockville stormwater fund consists of collections of the stormwater fee from properties in the city and monies drawn from the Rockville general fund. Nonprofits and schools also pay the fee.

An ERU (Equivalent Residential Unit) was established with 400 sample homes used to determine the average footprint. The current ERU fee is $118 per year for 2,330 SF. The original ERU was $40 and the rate has gone up each year (every single family home or townhouse pays 1 ERU, commercial fees are calculated by number of ERUs in their footprint). Mark noted that no one has complained or challenged the ERU or its increases. He describes the stormwater fee as comparable to sewer and water fees.

Rockville does offer a fee-in-lieu in the form of a one-time fee that is only applied if you have no room to install stormwater facilities on site. The property owner pays the cost of what it would have cost to install necessary stormwater facilities on their property. The current estimates for the fee-in-lieu are $200 - $300K per acre, which are noted in law and based on a variety of factors.

Rockville provides a credit program. A 100% credit is provided if a property can hold 100% of water for 100-year storm. The stormwater facilities receiving credit are included in the property deed as an easement. The average fee credit is typically 50%. Only 18 of the 20,000 parcels subject to the fee have applied for credit over the 10-year program.

Mark noted there are still many options for installing stormwater on public property in Rockville, including green streets and inlet filtration. Rockville plans to exhaust public options before exploring work on private property. Rockville owns wide buffers along its 30 miles of stream which afford opportunities for larger stormwater facilities, so less ESD has been implemented. Mark suggested that parking space requirements could be reduced to free space for stormwater facilities.

Strawman

Mark Southerland distributed a strawman document for the group to review in preparation for the next meeting that outlines possible recommendations and information for the final report due in September.

Closing

The meeting adjourned at 12:20 pm.

Howard County Commercial Stormwater Solutions (CSS) Work Group

August 17, 2016

9:00AM – 11:00 pm

Attendees:

Work Group: Carl Gutschick, Leonardo McClarty, Cole Schnorf, Mark Southerland (chair)

Staff: Jim Caldwell (OCS—Director), Lindsay DeMarzo (OCS – staff for the work group)

Introductions

Mark Southerland opened the meeting with a reminder that the work group is working toward a final report to be submitted to the County Executive and County Council on September 30. To that end, Mark S and Lindsay provided a strawman document for review prior to the meeting.

Discussion

The group made the following comments related to the strawman:

- Review and comments by Chip Doetsch and Peter Mangione are important because they represent owner-occupied, commercial properties, which might have a different perspective than leased properties. We should determine how many of each type of property there is in the county.
- We should determine the cost of adding a permit reviewer to handle stormwater projects. [Note that Anne Arundel County recently announced the launch of the expedited review program that allows citizens to hire, at their own expense, certified private sector engineers to review land use construction plans. The results of an expedited review will be verified by the county on an accelerated basis and approved by county staff.]
- The members agreed that a stormwater credit program based on extensive redevelopment, such as described last meeting for DC, would generally only be applicable to Downtown Columbia and Main Street Ellicott City, and would not be the basis of the countywide program. Current regulations for Downtown Columbia require management of stormwater on site.
- Regulations for redevelopment in Howard County require that 50% of final impervious on site be managed for stormwater. Montgomery County requires that 100% be managed. We should determine if this has reduced the amount of redevelopment in Montgomery County.
- To date Montgomery County has constructed all its stormwater projects on public land, which contributes to it being more expensive and not meeting the permit deadline.
- Because it is difficult to get individual property owners who are not planning to redevelop to construct stormwater projects on their land, it is more practical to look for existing stormwater ponds that can be enhanced. An aggregator approach with competitive bidding may be the most

efficient for this. [Note that DC Stormwater Reduction Credit program is providing $500,000 to a consultant to identify promising commercial properties for stormwater projects.]

- Prince George's County Public Private Partnership (P3) program (Clean Waters Partnership) managed by Corvias was created because the County believes that private construction will be more timely and cost-efficient than government construction. The program is using simple, standard designs of different stormwater project types to accelerate implementation.

- Given that the costs of design of a stormwater project are small relative to construction costs, it may not be a cost savings to combine these into design-build.

- Investor-owned properties must maintain a return on investment that limits their ability to contribute financially to stormwater projects. Therefore, it is likely that all such properties would require that design and construction of stormwater projects be reimbursed 100%.

- The group agreed that a turnkey program like the existing Howard County nonprofit stormwater program would be a good model for the County's commercial program. The County has an inventory of projects from its current watershed plans that could be used by bidders to propose costs to treat impervious acres on commercial properties. They also stated that the program does not need to allow the contractor to receive full payment for 90% of the treated acres bid; it would be up to the contractor to budget his risk when expecting payment prorated to the final acres treated.

- The group agreed that a fee reduction or tax incentive would likely be needed rather than simply recognition of their efforts with "green certification."

    - Tax incentive option could be similar to that applied to LEED buildings

    - The group had earlier discussed the possibility that commercial owners could depreciate the stormwater facility on their taxes. [Note NRDC is currently in discussions with Department of Treasury as to the tax rules applying to stormwater projects on private property that provide for the public good.]

    - Another option would to be to allow construction of a stormwater project on a nonprofit property as a charitable donation for tax purposes

    - It was also stated that the County should not be expected to pay for construction of the project and reduce or eliminate the stormwater fee on the property. The public would likely see this as special treatment for the commercial sector.

    - This might be addressed by providing a stormwater fee reduction in exchange for owner maintenance of the stormwater project.

    - Another option open to the County is to create regulations that mandate stormwater management of legacy impervious on commercial and/or residential properties

  - In any case, extensive education of property owners should be undertaken on the needs to manage stormwater and the benefits it provides to individuals and the community

- It is important for the County to balance its revenues against incentives so that it can accomplish its program. The estimated shortfall of $88M ($40M fee income vs. $128M costs over 5 years of the permit) is likely to be considerably larger, since the cost of stormwater projects will increase above the $65,000 per treated acres used in the estimates, as the easiest to manage sites are completed.

- It was stated that the report should include a discussion of the possible outcomes for the County, commercial sector, and community of NOT meeting the MS4 permit requirements. Currently EPA is negotiating a consent decree with Montgomery County, which did not meet its MS4 permit requirements. Potential consequences include the following:

  - Daily fines on Howard County

  - Withdrawal of federal and state highway funding to Howard County

  - Reduction or elimination of new construction permits in Howard County

  - Imposition of individual stormwater permits on commercial properties

  - Creation of special protection areas with stricter stormwater regulations.

Logistics

The group agreed that a second meeting to discuss the strawman was needed to accommodate more members of the work group in early September. The final meeting to discuss the draft report will be rescheduled from just after Labor Day to later in September. Lindsay sent out a doodle scheduling poll and accommodated 9 of the 11 members for each meeting, which are now scheduled for Sept 2 (10am) and 21 (2pm).

Mark S and Jim will be presenting the results of the work group at the Chesapeake Watershed Forum on October 1 and are soliciting participation by other members of the work group. Please contact Mark S if you are available.

Closing

The meeting adjourned at 11:00 pm.

Howard County Commercial Stormwater Solutions (CSS) Work Group

September 2, 2016

10:00AM – 12:00 pm

Attendees:

Work Group: Mark Charles, Leonardo McClarty, Cole Schnorf, Pete Mangione, Carl Nelson, Dan Nees, Michael Corso, Mark Southerland (chair)

Staff: Jim Caldwell (OCS—Director), Lindsay DeMarzo (OCS – staff for the work group)

Introductions

Mark S. opened the meeting with a reminder that the work group is working toward a final report to be submitted to the County Executive and County Council on September 30. He told the group that today's meeting was a continuation of the August 17 meeting that discussed the strawman, which will ultimately be incorporated into the draft report.

Discussion

The group made the following comments related to the strawman:

- The County should consider allowing "peer reviewers" identified by the developer to conduct stormwater plan reviews as an option to adding a dedicated stormwater plan reviewer within DPZ
    - Anne Arundel County is starting a peer review program, Prince George's County has been doing it for decades, and it was recommended by Howard County transition team
    - Registered engineers apply and get approved to review on behalf of DPZ
    - Value may depend on the cost to the developer and time saved
    - Standard stormwater management (SWM) designs would make review even more efficient
    - Rockville and Montgomery County have used peer reviewers for programs other than stormwater and it has worked
    - Peer reviewer would be in conjunction with other incentives previously mentioned, such as waiving review fees, bonding, sureties, permits, etc.
- While owner-occupied commercial properties are likely to be more receptive to construction of SWM on their land, they may only represent 10-25% of industrial properties and they tend to be the smaller buildings
    - Targeting properties for SWM, therefore, should not be limited to owner-occupied properties as it would miss the majority of properties and impervious acres

- Similarly, focusing on the owners as previously discussed, should be expanded to include property management firms
    - This could increase the scale of SWM efforts and property management firms are often more local than the owners and likely understand the property better and have more motivation to enhance the property
- Include additional background material on the stormwater challenge in the introduction to the report
    - 2044 acres needed to meet permit (distribution is 60% residential and 40% commercial and non-profit)
    - County goal of reaching out to the largest properties first
    - Statement that the County will maximize SWM on public land, but with only 30% of impervious area to be treated on public land, it SWM needs to be done on private property as well; also note that private property has many of the less-expensive opportunities
    - Mention existing County programs in nonprofit and residential sectors and emphasize that the recommended commercial sector program is the third component of the solution
- Consider how tax credits would work differently for different owners, such as investor-owned corporations, public companies, etc.
    - Options could be reviewed by accountant/tax staff of affected firms to determine impact
    - Tax questions may turn on whether SWM is considered an enhancement to the property
- Consider offering a waiver on parking requirements for owners that agree to construct SWM that takes up parking spaces
- Consider a banking program that allows owners or the County to buy/pay for installation of SWM practices elsewhere, since paying for off-site SWM could be cheaper
    - Land value is the highest cost for stormwater treatment in most situations, so constructing SWM facilities on the cheapest land through a market-based trading system is the most cost effective, i.e., allowing the County to pay less for each treatment credit
- Keep the program simple for owners that are not versed in stormwater or even development
- County is learning to streamline the coordination and permitting required to work on private property through the stream restoration on Patrick Farm
- Many owners will not be influenced by the penalties that the County or developers may face if the SM4 permit is not met
    - They do not see the direct impact to them and will not be willing to give up parking or other space to construct SWM facilities
    - They would consider an enhancement/retrofit of an existing pond

- Perhaps the case can be made that an enhanced pond is an amenity that can increase the bottom line for an owner/operator (e.g., by increasing room rates or greens fees)

- While enhancing a current pond with retrofit for better SWM is generally the first choice, changes in maintenance requirements need to be considered
    - For example, changing a dry pond to new pond with forebay will require somewhat more annual maintenance (more than mowing only) and dredging of the forebay every 10 years, for a total of about $20,000 over 10 years
    - Therefore, the highest priority should be old ponds that don't require major construction or maintenance changes

- Voluntary basis of this program is the biggest issue
    - Streamlining the permit process is important to owners, but it is not an incentive to get businesses to agree to SWM
    - Tax credits are an incentive, but does the County have enough money to write a check for a credit if the fee isn't bringing in enough money
    - While legislatures historically have been more reluctant to provide tax credits than to increase fees, Howard County does provide tax credits for LEED building construction
    - Accelerated depreciation of SWM facilities would be an incentive, but that requires changes to federal law

- There are finance companies (e.g., Ecosystem Investment Partners in Baltimore) that know how to engage the landowner from whom the County can learn the best message for businesses
    - Key message is that County wants to improve water quality in our local streams and cannot do this without the involvement of business owners
    - County should also sell this as an economic development program that will create local, green jobs
    - Can also be an education program for schools
    - Prosperity to date has been in part because Howard County's green space and environmental quality makes it a desirable location; therefore we should emphasize that this program will increase environmental quality or arrest its decline
    - Reducing polluted runoff (e.g., oil/grease and salts on roads and parking lots) is a better message than treating impervious surface, which the public and businesses may not understand

- Need to answer the business owner question of "Why is this my problem?" by assuring them that everyone (including neighboring counties) has to do it—i.e., that its fair
    - Latest change in the stormwater fee to limit the fee on commercial properties to 5% of their tax bill has returned the equitability of the fee across the sectors (actually 3% less than fair when fully implemented) compared to residential properties which paid 10% less than fair

before the amendment (commercial sector would be amenable to raising cap on fee to 7% of tax bill or whatever makes it exactly equitable)
  - Recommend raising the fee but everyone paying their fair share, perhaps through original impervious-based fee
  - Or raising property tax and providing credit that would be more efficient than County paying directly
  - Everyone should contribute equally to upgrading shared SWM facilities (e.g., regional ponds) such as those in Columbia Gateway
  - One message is that if the County cannot meet its permit with current incentives, then the stormwater fee will have to be raised, property tax will increase, or County will cut essential services (perhaps the report should list potential changes based on the funding shortfall)
  - Another message is that if the County cannot meet its permit with a voluntary program, it may have to institute a mandatory program through regulations (as was done with the Potomac River clean up)
  - Determine if the pitch to commercial sector better done by government or by a private "landman?"

- Maintenance is the biggest issue for most owners, so they will be more receptive if they are not responsible for maintenance

  - Requiring maintenance by owners will increase operating costs and raise rent of leases (this could average $5000-6000 per year per office property)
  - If companies are comparing properties to buy, they will choose the one with lower operating costs
  - Some owners might prefer to do their own maintenance paid for through a reduction in their stormwater fee, because they might be able to do it cheaper themselves
  - Report should include more detail on potential costs and timelines for maintenance

- Next steps to ensure report is implemented

  - CSS needs to present this to County Council and County Executive (or his stormwater cabinet) themselves (rather than having it come from OCS)
  - Emphasize that this report reflects a public-private-partnership
  - NAIP, Chamber, BOMA could help sell the program, unless it's done like the nonprofit program and someone is responsible for doing outreach/recruitment
  - CSS should offer to help County develop the program and identify early projects

Logistics

The results of today's meeting will be incorporated into a draft report that will be distributed to the group for review prior to the final meeting on September 21. Revisions approved by the group at that meeting will be incorporated into a final report for submission to the County Executive and County Council on September 30.

Mark S., Jim, and Cole will be presenting the results of the work group at the Chesapeake Watershed Forum on October 1.

Closing

The meeting adjourned at 12:00 pm.